

WHEREAS, the Department of Commerce and Insurance (the “Department” or “TDCI”) has jurisdiction over this PLHSO and over an Administrative Supervision of a PLHSO (“Supervision”). This Agreed Notice of Administrative Supervision (“Notice”)

and the provisions thereof are governed by Tenn. Code Ann. § 56-9-501 *et. seq.*, § 56-51-144; and

WHEREAS, Premier is owned by two entities: (1) Premier Holdings, Inc., which holds a fifty percent (50%) interest; and (2) Columbia Behavioral Health of Tennessee LLC, which holds a fifty percent (50%) interest; and

WHEREAS, in Premier's third quarter 2002 filings with TDCI, Premier has reported an approximate net worth of \$1.8 million as of September 30, 2002, which is not in compliance with Premier's minimum net worth requirement; and

WHEREAS, Premier receives significant contracted management, provider network, and other services from AdvoCare of Tennessee, Inc. (hereinafter "AdvoCare"), an affiliate of Magellan Health Services (hereinafter "Magellan"); and

WHEREAS, Magellan and its affiliate AdvoCare, in an effort to provide a level of continuity of services to Premier, have agreed to do the following:

- a. AdvoCare will facilitate a direct contractual relationship between Premier and Affiliated Computer Services, Inc., the current claims processor for Premier;
- b. AdvoCare will facilitate a direct contractual relationship between Premier and ENA, the current manager of AdvoCare's website for data exchange with providers of outpatient case rated services;
- c. AdvoCare will effect a limited assignment of its provider contracts to Tennessee Behavioral Healthcare, Inc., an affiliate of Magellan and a Tennessee licensed prepaid

limited health services organization. Tennessee Behavioral Healthcare, Inc. and Premier will enter into an agreement providing access and use of Tennessee Behavioral Healthcare, Inc.'s network of providers; and

WHEREAS, Premier has agreed to be subject to Supervision; and

WHEREAS, on December 30, 2002, then Commissioner of Commerce and Insurance Anne B. Pope placed Premier into Supervision; and

WHEREAS, Premier and TDCI have agreed to amend and supersede that Notice of Supervision;

**NOW, THEREFORE, it is AGREED** by the Commissioner of Commerce and Insurance (hereinafter the “Commissioner”) and Premier that Premier is hereby placed under Administrative Supervision of the Commissioner pursuant to Tenn. Code Ann. § 56-9-501 *et. seq.* The Commissioner is applying for and effectuating the provisions of Title 56, Chapter 9, Part 5. Pursuant to Tenn. Code Ann. § 56-9-503(b), Premier is hereby notified that Premier must demonstrate compliance with the net worth requirements as set forth for prepaid limited health services organizations in Tenn. Code Ann. Title 56, Chapter 51, Part 1 on or before June 30, 2003.

The terms of this Notice are as follows:

1. The Commissioner, under the provisions of Tenn. Code Ann. §56-9-505, hereby appoints Patricia Newton to serve as the Administrative Supervisor (hereinafter the “Supervisor”) to carry out the terms of this Notice. If at any time the above-named Supervisor is unable to carry out the terms of this Notice, the Commissioner may designate another person to serve as Supervisor. Premier agrees to pay one half of the

cost of the Supervisor's fees and expenses in carrying out this Notice.

2. If prior to June 30, 2003 Premier develops a zero (0) net worth, as determined by the Commissioner or the Supervisor, the following become terms of this Notice:

- i. The Commissioner may contract with consultants, such as claims specialists, computer/information systems specialists, accountants, actuaries or other persons whom the Commissioner and/or Supervisor deem necessary and able to aid in the supervision of Premier. These contractual services will be paid by the State of Tennessee.
- ii. The Officers, Managers, Directors, Trustees, Owners, Affiliates, Management Company, Employees or Agents of Premier and any other persons or related parties with authority or control over or in charge of any segment of Premier affairs, will cooperate with the Commissioner and the Supervisor in the carrying out of the Supervision. This cooperation shall include, but shall not be limited to the following:
  - a. To reply promptly in writing (within twenty-four (24) hours) to any inquiry from the Supervisor the Commissioner, or the Commissioner's other agents, as designated in writing, - requesting such a reply.
  - b. To make available to the Supervisor, the Commissioner, or the Commissioner's other agents as designated in writing, any books, bank and investment accounts, documents, or other records - including any data residing on magnetic media or optical media - or information or property of or pertaining to Premier in its possession, custody or control. No person shall obstruct or interfere with the Commissioner in the conduct of this Supervision.
  - c. To respond promptly, fully and accurately to inquiries by the Supervisor, the Commissioner, or the Commissioner's other agents as designated in writing, about operations or any other matters

which the Supervisor or Commissioner deem important to this Supervision.

- d. To provide, upon request, direct access to a written listing of and immediate access to all of the property, assets, and estate and all other property of every kind, wherever located belonging to Premier, including, but not limited to, offices maintained by Premier, rights of actions, books, contracts, electronic data, papers, evidences of debt, bank accounts, savings accounts, certificates of deposit, stocks, bonds, debentures and other securities, mortgages, furniture, fixtures, office supplies and equipment, and all real property of Premier, wherever situated, whether in the possession of Premier or its officers, directors, trustees, employees, consultants, attorneys, agents, affiliates or contractors.
- e. To provide direct access to a written identification of the location of all the items set out in d. above.
- f. To provide full cooperation of Premier affiliates and officers, directors, agents, servants, employees and contractors during the period of supervision.

3. The Commissioner, the Commissioner's deputies, employees or duly commissioned examiners may undertake an on-site review and monitoring of Premier operations, including financial and claims processing operations.

4. It is not intended that issuance of this Notice restricts the rights or ability of the Commissioner of Commerce and Insurance to discuss matters related to the operations or oversight of Premier or to release or discuss information or documentation that is required to be submitted to TDCI by all prepaid limited health service organizations operating in Tennessee, including, but not limited to, quarterly and annual financial filings, and requests for material modifications of the Certificate of Authority. Moreover, pursuant to 2002 Public Acts, Chapter 660, amending Tenn. Code Ann. § 56-9-504, financial solvency records of Premier shall be open to the public under the Public Records Act. Proprietary information, including, but not limited to, provider

reimbursement information, remains protected by 2002 Public Acts, Chapter 880, Section 18.

5. It is not intended that issuance of this Notice restricts the rights or ability of the Commissioners of Commerce and Insurance or Finance and Administration to release or discuss information or documentation that is required to be submitted to the Department of Finance and Administration by all prepaid limited health organizations contracting with the State of Tennessee TennCare Program, including, but not limited to, reports and documents required to be filed with the TennCare Bureau.

6. The Commissioner will, upon the effective date of this Notice, provide a copy of this Notice and other appropriate documentation to the insurance departments of other states in accordance with Tenn. Code Ann. § 56-44-105, authorized representatives of the United States, representatives of the State Comptroller's Office, and the Speakers of the House and Senate of the Tennessee General Assembly.

7. The Commissioner may, upon the effective date of this Notice, provide other appropriate information and documentation to authorized representatives of the United States, representatives of the State Comptroller's Office, and the Speakers of the House and Senate of the Tennessee General Assembly.

8. During the period of supervision, Premier, either directly or indirectly through affiliates, contracted management companies, or others, may not do any of the following without the prior written approval of the Commissioner or the Commissioner's appointed Supervisor:

- a. Dispose of, convey or encumber any of its assets, capital, or its business in force;

- b. Withdraw any of its bank accounts;
- c. Lend any of its funds;
- d. Invest any of its funds;
- e. Transfer any of its property or declare any dividend;
- f. Incur any debt, obligation or liability;
- g. Merge or consolidate with another company;
- h. Enter into any new stop loss, excess loss, reinsurance contract or treaty;
- i. Make any material change in management; or
- j. Increase salaries and benefits of officers or directors that is not provided to all employees or the preferential payment of bonuses, dividends or other payments deemed preferential;

9. In furtherance of the purposes of Paragraph 8 above, the provisions of any contractual arrangement between Premier and the Tennessee Department of Mental Health and Developmental Disabilities with respect to Premier's receipt and disbursement of funds are hereby incorporated by reference as if fully set forth herein and Premier's receipt and disbursement of funds shall occur in conformity with any such agreement and any amendment thereto.

10. Nothing in this Notice shall preclude the Commissioner and Premier from amending, rejecting or modifying this Notice by written agreement. Furthermore, nothing in this Notice shall prevent the Commissioner or other State authorities from instituting any other remedies available to them under law with respect to Premier; provided, however, that the Commissioner agrees not to take any further action against

Premier based solely on the existence of a net worth deficiency prior to July 1, 2003, if Premier's net worth at all times remains above zero (0).

11. Notwithstanding any provisions herein to the contrary, TDCI expressly and specifically retains its authority to take any regulatory action it deems appropriate, and in no way shall this order be construed to estop the Department or its officials from fulfilling their regulatory obligations on any basis other than Premier's failure to comply with statutory and contractual net worth requirements prior to July 1, 2003, provided Premier's net worth remains above zero (0).

12. Action of the Commissioner applying and effectuating the provisions of Title 56, Chapter 9, part 5 is subject to review pursuant to applicable state administrative procedures under the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5 of the Tennessee Code Annotated.

13. All other rights and/or powers granted to the Commissioner pursuant to Tenn. Code Ann. §§56-9-501 *et seq.* are reserved.

14. Based upon the facts cited herein, the Commissioner deems that it is in the best interest of the public that this Notice of Supervision, the proceedings, hearings, notices, correspondence, reports, records or other information relating to the supervision that are not protected by other law of this Administrative Supervision are deemed open and public pursuant to Tenn. Code Ann. § 56-9-504, as amended by Public Acts 2002, Chapter 660 unless otherwise required to be maintained as confidential under federal and/or state law.



ENTERED and EFFECTIVE BY CONSENT, this the 11th day of  
February, 2003.

Paula A. Flowers  
**PAULA A. FLOWERS, Commissioner**  
Department of Commerce & Insurance

Charles D. Klusener  
**CHARLES D. KLUSENER,**  
Chief Manager  
Premier Behavioral Health Systems of  
Tennessee, LLC

**APPROVED FOR ENTRY:**

Megan Arthur by permission R. E. M.  
**Counsel for Premier Behavioral Health Systems of Tennessee, LLC**

Patricia L. Newton  
**PATRICIA L. NEWTON**  
Acting Deputy Commissioner, TennCare Oversight Division  
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